REMARKS

Claims 1-21 are pending in Application No. 10/533,180 filed in the U.S. Patent & Trademark Office on April 29, 2005. A first Office Action was mailed on June 20, 2008.

In the Office Action, the Examiner rejected Claims 1-21. More particularly, the Examiner rejected Claim 5 under 35 U.S.C. §112, first paragraph and second paragraph, as failing to comply with the written description requirement and for being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner rejected Claims 1-6, 8-11, 13, 16-18 and 20-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 3,420,671 to Hess et al. ("the Hess '671 Patent") in view of U.S. Patent No. 4,012,535 to Fiala et al. ("the Fiala '535 Patent"). Claim 7 was rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over the Hess '671 Patent in view of the Fiala '535 Patent and U.S. Patent No. 2,091,285 to Kieter ("the Kieter '285 Patent"). Claims 12, 14-15 and 19 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over the Hess '671 Patent in view of the Fiala '535 Patent and U.S. Patent No. 6,579,552 to Myhre ("the Myhre '552 Patent").

Applicant has amended Claims 1-6 and 8-19 to particularly point out and distinctly claim Applicant's invention. It is believed that Claims 1-21 are now in condition for allowance.

REJECTIONS UNDER 35 U.S.C. §112

The Examiner rejected Claim 5 under 35 U.S.C. §112, first paragraph for failing to comply with the written description requirement. The Examiner stated that the phrase "the juice is extracted, concentrated, and stored in liquid concentrate tank(s)" in Claim 5, line 2 was not supported by the Specification because the Specification "does not disclose what material has juice what the juice is or how the juice is extracted."

Applicant respectfully submits that Claim 5 does comply with the written description requirement of 35 U.S.C. §112, first paragraph. The Specification at Page 9, lines 9-12 states: "Preferably, in step (b), the harvested crop is shredded using heavy duty shredder/hammermill machines. Preferably, the juice is extracted, concentrated, and stored in liquid concentrate tank(s)." It is clear that the juice is derived from the harvested legume fodder crop after it is shredded using heavy duty shredder/hammermill machines. In addition at Page 13, lines 10-13 of the Specification: "The feed mill 10 receives the fresh harvested legume fodder crop, which is passed through shredders/hammermill machines in the shredder 11. After shredding, the juice may be extracted and concentrated, to be described with reference to Figure 3." Again, it is clear that the juice is derived from the harvested legume fodder crop after it is passed through the shredders/hammermill machines in shredder 11. Furthermore, at Page 14, lines 16-21, the Specification states in relevant part that: "From the shredder 11, the wet shredded fodder WSF is transferred to a counter-current juice dilution/extraction plant 18." Figure 3, clearly shows that the juice is being extracted from the wet shredded fodder after it is shredded in shredder 11 by a counter current juice dilution/extraction plant 18. Applicant respectfully submits based upon the foregoing that Claim 5 does comply with the written description requirement of 35 U.S.C. §112, first paragraph. Therefore, Applicant respectfully submits that Claim 5 is in condition for allowance.

The Examiner also rejected Claim 5 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended Claim 5 to correct the antecedent basis for "the juice" in that claim, and based upon the amendment as well as the arguments set forth above, Applicant respectfully submits that Claim 5 is now in condition for allowance.

REJECTIONS UNDER 35 U.S.C. §103(a)

The Examiner rejected Claims 1-6, 8-11, 13, 16-18 and 20-21 under 35 U.S.C. §103(a) as being unpatentable over the Hess '671 Patent in view of the Fiala '535 Patent.

Applicant has amended independent Claims 1, 11, 16 and 18 to particularly point out and distinctly claim Applicant's invention. Applicant respectfully submits that neither the Hess '671 Patent nor the Fiala '535 Patent teach or even suggest a method for processing a legume fodder crop that includes "providing a cane sugar mill", "providing a feed mill, said feed mill being located at/adjacent to said cane sugar mill", and "drying the shredded material using heat supplied by the cane sugar mill or from byproducts of the cane sugar mill" as set forth in Claims 1, 11, 16 and 18. The Examiner argues that the elements listed above are not material to the method of processing legume fodder and are therefore not limiting. However, it is well settled law that when evaluating a claim for determining obviousness under 35 U.S.C. §103(a), all limitations of the claim must be evaluated. In *In re Fine*, 873 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), the Federal Circuit held that a reference did not render the claimed combination *prima facia* obvious because *inter alia*, the examiner ignored a material, claimed, temperature limitation which was absent from the reference. In the present case, it is clear that amended independent Claims 1, 11, 16 and 18 include the material limitations of "providing a cane sugar mill", "providing a feed mill, said feed mill being located at/adjacent to said cane sugar mill", or "drying the shredded material using heat supplied by the cane sugar mill or from byproducts of the cane sugar mill" which are not taught or even suggested by either the Hess '671 Patent or the Fiala '535 Patent.

Based on the foregoing, Applicant respectfully submits that amended Claims 1, 11, 16 and 18 are in condition for allowance. Because claims 2-10, 12-15, 17, and 19-21 depend

either directly or indirectly from Claims 1, 11, 16 and 18, they too are in condition for allowance.

In view of the above, it is submitted that the claims now are in condition for allowance, and reconsideration of the rejections is respectfully requested and allowance of claims 1-21 at an early date is hereby respectfully solicited.

Respectfully submitted,

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